IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 24539 of 2004

Between:

Kunchapu Danamma W/o Nuka Raju
R/o Kotha Maszid, Jaggaiahpeta, Krishna District

..... PETITIONER

AND

1. The Collector and District Magistrate, Krishna District at

Machilipatnam
2 The Government of Andhra Pradesh rep by Chief Secretary

Hyderabad
3 The Superintendent, Central Prison, Rajahmundry

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus Under Art 226 of the Constitution of India directing the Respondents to produce Kunchapu Nukaraju now detained in Central Prison, Rajahmundry, before this Hon'ble Court and he may be ordered to be released forthwith after declaring that his detention is illegal and void and pass such other order or orders in the interest of justice

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court at the admission stage made the following :

ORDER: (per Sri BN.J)

Heard the learned counsel for the parties.

The detention of the detenue viz., Kunchapu Nooka Raju has been challenged by way of this writ petition. The order of detention has been passed on 26.9.2004 by the Collector and District Magistrate in terms of Section 3(1) & (2) read with Section 2(a) & (b) of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act'). Various grounds have been taken for challenging the order of detention. One of the grounds is that the learned Magistrate has relied on the oral complaints received by him in order to reach to the subjective satisfaction that the detention of the detenu was necessary. The nature of the oral complaints is not known to the detenu. Therefore, his right under Article 22(5) of the Constitution of India to make an effective representation was defeated.

We have earlier held in some of the cases that where the Collector and the District Magistrate has relied on the oral complaints and the gist of those complaints is not communicated to the detenu, the detention cannot be sustained. On this ground alone, we quash the order of detention and direct the release of the detenu forthwith, if not needed in any other case.

Since we have quashed the order of detention for the reasons given

hereinabove, we do not propose to deal with the other grounds.

The writ petition is accordingly allowed.

(BILAL NAZKI,J)

dated 18.1.2005

(Dr.G.YETHIRAJULU,J)

msv.

To

1. The Collector and District Magistrate, Krishna District at

Machilipatnam
2 The Chief Secretary, Government of Andhra Pradesh,

Hyderabad
3 The Superintendent, Central Prison, Rajahmundry

4 2 CCs to the Advocate General, High Court of A.P. Hyderabad (OUT)

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